IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 10127 of 2004 & WRIT APPEAL NO.1139 OF2004

W.P.No.10127/2004

Between:

1. T. Laxmibai W/o. T. Appa Rao

   R/o 205 Airbus Apartments, Vithalwadi, Hyderabad.
2. T. Jagadish Kumar W/o. T. Appa Rao
   R/o 205 Airbus Apartments, Vithalwadi, Hyderabad.

...PETITIONERS

AND

1. The Commissioner, Endowments, Andhra Pradesh, Hyderabad.
2. P. Chandrasekhar Rao S/o. Sobhana Chalapthi Rao
   R/o. 18/3, Sapers Line, Secunderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any other writ or order or direction declaring that the petitioners herein are entitled to terminal benefits of Smt. T. Chandrakala, Senior Assistant, Office of the Commissioner, Endowments, Andhra Pradesh, Hyderabad, consequent to her death in service on 23-11-2003 and issue a consequential direction directing the first respondent to settle and disburse the Family Pension, Gratuity, GPF., Group Insurance, arrears of salary due to Smt. T. Chandrakala, encashment of earned leave salary and also to reimburse the medical bills which are pending with the office of first respondent expeditiously,.

W.A No: 1139/ 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23/06/2004 in WPMP.No.12871 of 2004 in WP No: 10127 OF 2004 on the file of the High Court.)

Between:

1. T. Laxmibai, W/o T.Appa Rao,
   R/o 205, Airbus Apartments, Vithalwadi, Hyderabad
2. T. Jagadish Kumar, S/o T.Appa Rao,
   R/o 205, Airbus Apartments, Vithalwadi, Hyderabad

....APPELLANTS

AND

1. The Commissioner, Endowments, Andhra Pradesh, Hyderabad

2. P. Chandrasekhar Rao, S/o Sobhana Chalapathi Rao,
   R/o 18/3, Sapers Line, Secunderabad

....RESPONDENTS

Counsel for the Petitioners &Appellants: KUM.C.SINDHU KUMARI
Counsel for the Respondent No.1: GP FOR ENDOWMENTS
Counsel for the Respondent No.2:

The Court made the following:

COMMON ORDER: (per Hon'ble Sri Justice J. Chelameswar)

The two petitioners in W.P.No.10127 of 2004 are the mother and brother respectively of the deceased T. Chandrakala. The said Chandrakala, who was an employee of the first respondent (The Commissioner, Endowments), died on 23-11-2003 while working as 'Senior Assistant'. It appears that on 18-02-1989 Chandrakala went through an incomplete 'ritual' of a marriage with the second respondent herein. Subsequently, sometime in the month of June 1996, the deceased Chandrakala and the second respondent presented O.P.No.395 of 1997 on the file of the Family Court at Hyderabad, purported to have been filed under Section 13-B of the Hindu Marriage Act. One of the grounds urged in the said O.P. is that the marriage was a void marriage, as the ritual of Saptapadi, which was an essential ceremony required to be undergone according to the custom applicable to both parties, was not gone through. However, the said O.P. could not be decided in view of the death of Chandrakala.

2. According to the petitioners, on 18-01-2000 Chandrakala executed an un-registered will bequeathing all her terminal benefits in favour of the writ petitioners herein. The complaint of the petitioners in the present writ petition is that though the petitioners approached the first respondent for releasing the benefits which accrue consequent on the death of Chandrakala in accordance with the relevant rules applicable to the service, the respondents have not taken any action in this regard.

Therefore, the writ petition is filed with a prayer as follows—

> "To issue Writ of Mandamus or any other writ or order or direction declaring that the petitioners herein are entitled to terminal benefits of Smt. T. Chandrakala, Senior Assistant, Office of the Commissioner, Endowments, Andhra Pradesh, Hyderabad, consequent to her death in service on 23-11-2003 and issue a consequential direction directing the first respondent to settle and disburse the Family Pension, Gratuity, G.P.F., Group Insurance, arrears of salary due to Smt. T. Chandrakala, encashment of earned leave salary and also to reimburse the medical bills which are pending with the office of the first respondent expeditiously".

3. While admitting the Writ Petition on 23.06.2004, a learned single Judge of this Court passed an order directing the first respondent not to disburse the terminal benefits of the deceased Chandrakala. Aggrieved by the same, Writ Appeal No.1139 of 2004 has been filed by the writ petitioners.

4. No doubt, the first respondent is required to take a decision whether the petitioners are entitled for the benefits, referred to above, or not. While taking the said decision, the first respondent is of-course bound to consider the rival claim, if any in existence. The complaint of the petitioners is that the first respondent has not taken any decision in this regard.

5. In the above circumstances, we deem it appropriate to dispose of the writ petition directing the first respondent to take appropriate decision on the claim made by the petitioners, within a period of four weeks from the date of receipt of a copy of this order, and the same shall be communicated to the petitioners within a period of one week thereafter.

6. The writ petition is disposed of as indicated above. In view of the above mentioned orders, no orders are necessary in the writ appeal. Accordingly, the writ appeal is closed. No costs.

_____

J. CHELAMESWAR, J

GODA RAGHURAM, J

Dt.31-08-2004

Glv/PVSN

DEPUTY REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to

1. The Commissioner, Endowments, Andhra Pradesh, Hyderabad

2. Two C.Cs to the Government Pleader for Endowments, High Court Buildings, Hyderabad. (O.U.T)

3. Two C D copies.